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ATTORNEY GENERAL

Office of the Attorney General
State of Texas

August 1, 1991

Mr. Denis Dennis
Attorney for Ector County I.S.D.
Bank One Building, Suite 6126
3800 East 42nd
Odessa, Texas 79762

OR91-350

Dear Mr. Dennis:

You ask whether certain memoranda, letters, and telephone logs relating to a public school principal's performance are subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12830.

We have considered the exception you claimed, specifically section 3(a)(11) and section 3(a)(14) in connection with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.A. § 1232g) and have reviewed the documents at issue.

Section 3(a)(11) permits a governmental body to withhold inter- or intra-agency communications consisting of advice, opinion, or recommendation to be used in the deliberative process. We agree that much of the information for which you have claimed section 3(a)(11) protection does fall within section 3(a)(11) and have marked the portions of the requested information which you may withhold under that exception. See Open Records Decision No. 538 (1990).¹

We also agree some of the requested information is protected under section 3(a)(14) in connection with the federal Family Educational Rights and Privacy Act, *supra*, the "Buckley amendment". See art. 6252-17a, § 14(e). Under this exception, personally identifiable information about students *must* be withheld. See Open

¹We note that we do not agree with your reading of Open Records Decision No. 538 regarding protection of the identities of those offering advice, opinion, or recommendations protected by section 3(a)(11). Open Records Decision No. 538 overruled prior opinions which had ruled that advice, opinion, or recommendation was not protected unless the person giving the advice, opinion, or recommendation was identified. It did not find that the identity of such person was itself protected under the 3(a)(11) exception.

Records Decision No. 431 (1985). We have marked the portions of the requested information which must be withheld under section 3(a)(14).

You must disclose the information which we have not indicated as falling within the above-mentioned exceptions. Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-350.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/mc

Ref.: ID# 12830

Enclosures: Open Records Decision Nos. 431, 538

cc: Ms. Phyllis Calzada
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